HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 916 of 2005

Appellants	1.	Smt. Shama Parveen, W/o Baadshah Salamat Khan, aged about 40 years.
	2.	Baadshah Salamat Khan, aged 42 years, S/o Shafiullah Khan, Motor Driver. Both R/o Nehru Nagar, Virbhadra Nagar, Raipur, Tehsil and District- Raipur (C.G.).
	Versus	
Respondents	1.	Mohd. Abdul Rahim, aged 38 years, S/o Mohd. Abdul, Truck Driver.
	2.	Upendra Kumar Dubey, S/o Girish Chandra Dubey, Truck Owner. Address of both No. 1 and 2 is – MS Service Station Telibandha, Raipur, Tehsil and District- Raipur (C.G.).
	3.	The United India Insurance Co. Ltd. Divisional Office No.7, 102/A Shri Arvindo Saarni, Haathi Bagaan, Calcutta- 7000006, Divisional Manager, Divisional Office, Kutchery Chowk, Jail Road, Raipur (C.G.).

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Raja Sharma, Advocate, for the appellants.

Mr. Prashant Jayaswal, Senior Advocate with Shri Ali Asgar, Advocate for the Respondent No.3.

ORAL ORDER

(14th December 2005)

The following order of the Court was passed by **S. R. Nayak, C.J.**

1. The dependents of the deceased have come up with this appeal for more compensation. It was contended by learned counsel for the appellant that the M.A.C.T. was not justified in taking the income of the deceased at notional rate as Rs. 15,000/- per annum for assessing loss of dependency. It was also contended that what is awarded by the M.A.C.T. towards 'loss to the estate' and 'funeral expenses' is inadequate. It was also contended that the M.A.C.T.

was not justified in not awarding compensation for loss of filial love.

2. We do not find any merit in the first contention. The deceased was 18 years of age on the date of accident and he was not an educated man. It has come in evidence that he was assisting his father, who was driver of the motor vehicle. Although, it was claimed that the deceased was earning monthly income of Rs. 4000/- on par with his father, there is absolutely no evidence to support this claim. In the absence of any other evidence the M.A.C.T. was right in taking the income of the deceased at a notional rate. However, we found considerable force in the other grievances of the appellant. What is awarded towards 'loss to the estate' and 'funeral expenses' cannot be regarded as just and reasonable in the facts and circumstances of the case. Therefore, we award sum of Rs. 20,000/- towards 'loss to the estate' as against Rs. 2500/- awarded by the Tribunal. Further, we award Rs. 5000/- towards funeral expenses as against Rs. 2000/-. The parents of the deceased are entitled to reasonable compensation under the head 'loss of filial love'. Therefore, we award sum of Rs. 20,000/- under the said head. The impugned award shall stand modified accordingly. In all other respects the impugned award shall remain unaltered. No costs.

Sd/-
Chief Justice

Sd/-
SATISH K. AGNIHOTRI
Judge

Thakur